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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,866	02/15/2001	Stephen A. Empedocles	19916-003800	4577
7590 10/24/2003				
Jeffrey S. Mann, Esq. Townsend and Townsend and Crew LLP 8th Floor Two Embarcadero Center San Francisco, CA 94111-3834			EXAMINER FORMAN, BETTY J	
			ART UNIT 1634	PAPER NUMBER

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

1003

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Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on 11 August 2003 is not fully responsive to the prior Office action because Applicant has not properly responded to the rejection under Obviousness-type Double Patenting. A proper response would include either 1) a statement arguing the rejection or 2) a statement of intent to file a Terminal Disclaimer upon notification of allowable subject matter if appropriate.


Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BJ Forman whose telephone number is (703) 306-5878. The examiner can normally be reached on 6:30 TO 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-8724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


BJ Forman, Ph.D.
Primary Examiner
Art Unit: 1634

October 21, 2003